IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1912 OF 2006.
IN
APPEAL NO. 662 OF 1994

K.N. Mujumdar ..Applicant
V/s
Dena Bank ..Respondents.

Mr.J.P. Cama Senior, Advocate i/b Amol Desai for the applicant.

Mr. Ms. Vandana Vichare i/b Haresh Mehta & Co. for the respondents.

CORAM : R.M.S.KHANDEPARKAR AND
D.G.KARNIK, JJ

DATE : 27TH JUNE , 2007.

P.C.

. Heard Mr. Cama, learned Senior Counsel on behalf of the applicant.

2. This is an application for condonation of delay of 2494 days in taking out the notice of motion for restoration of Appeal No.662/1994. It is the contention on behalf of the applicant that though the appeal was dismissed in July, 1999, he was not aware of the said fact till he enquired about the same. It is also his contention that he has been suffering from intermittent

Dementia and general debility since past many years and has been taking medical treatment for the same.

3. As regards the ailment, apart from making statement in that regard in the affidavit in support of notice of motion, no medical evidence is produced in that regard either in the form of medical certificate or affidavit. It is also not the case that that the applicant is continuously suffering from Dementia. It is not known as to what prevented the applicant from inquiring with the advocate about his case till June, 2007, when in fact the appeal was dismissed in July, 1999.

4. The affidavit in support of notice of motion is merely to the effect that on account of dismissal of the appeal he will suffer irreparable loss and injury. The same could not disclose the exact nature of injury that applicant would suffer on account of dismissal of appeal.

5. The affidavit in support of notice of motion therefore, neither discloses sufficient cause for delay in approaching the Court, nor the applicant has good

case on merits in the appeal as such. In the absence of sufficient cause is shown for condonation of delay for 2494 days in approaching the court, the application for condonation of delay is liable to be dismissed.

6. At this stage, Mr. Cama, learned Senior Counsel requests that the applicant may be permitted to file further affidavit and necessary medical certificate. Grant of such request to the applicant at this stage does not arise.

7. The application is dismissed.

(R.M.S. KHANDEPARKAR, J.)

A (D.G. KARNIK J.)